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Report of the United Nations Commission on International Trade Law on the work of its forty-third session

Draft resolution

Part three of the UNCITRAL Legislative Guide on Insolvency Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with the purpose of furthering the progressive harmonization and unification of the law of international trade in the interests of all peoples, in particular those of developing countries,

Recalling its resolution 59/40 of 2 December 2004 recommending the use of the *UNCITRAL Legislative Guide on Insolvency Law*,

Recognizing that effective insolvency regimes are increasingly seen as a means of encouraging economic development and investment, as well as fostering entrepreneurial activity and preserving employment,

Noting that because the business of corporations is increasingly conducted, both domestically and internationally, through enterprise groups, the formation of enterprise groups is a feature of the increasingly globalized world economy and thus significant to international trade and commerce,

Recognizing that where the business of an enterprise group fails, it is important not only to know how the group will be treated in insolvency proceedings, but also to ensure that that treatment facilitates, rather than hinders, the fast and efficient conduct of the insolvency proceedings,

Being aware that very few States recognize an enterprise group as a legal entity, except in limited ways for specific purposes and that very few, if any, have a comprehensive regime for the treatment of enterprise groups in insolvency,

Noting that the *UNCITRAL Legislative Guide on Insolvency Law*, while providing a sound basis for the unification of insolvency law and forming key

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elements of a modern commercial law framework, does not address the insolvency of enterprise groups,

Appreciating the support for and the participation of international intergovernmental and non-governmental organizations active in the field of insolvency law reform in the development of an additional part of the *UNCITRAL Legislative Guide on Insolvency Law* addressing the treatment of enterprise groups in insolvency,

1. *Expresses its appreciation* to the United Nations Commission on International Trade Law for developing and adopting part three of the *UNCITRAL Legislative Guide on Insolvency Law* on the treatment of enterprise groups in insolvency;[1]

2. *Requests* the Secretary-General to transmit the text of part three of the *UNCITRAL Legislative Guide on Insolvency Law* to Governments and other interested bodies;

3. *Recommends* that all States utilize the *UNCITRAL Legislative Guide on Insolvency Law* to assess the economic efficiency of their insolvency law regimes and give favourable consideration to the Guide when revising or adopting legislation relevant to insolvency, and invites States that have used the Guide to advise the Commission accordingly;

4. *Recommends also* that all States continue to consider implementation of the *UNCITRAL Model Law on Cross-Border Insolvency*;

5. *Recommends* that the *UNCITRAL Practice Guide on Cross-Border Insolvency Cooperation* continue to be given due consideration by judges, insolvency practitioners and other stakeholders involved in cross-border insolvency proceedings.

[1] See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17* (A/65/17), chap. V.